

EXHIBIT 36

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

4 DONNA CURLING, ET AL., :
5 PLAINTIFFS, :
6 VS. : DOCKET NUMBER
7 BRAD RAFFENSPERGER, ET AL., : 1:17-CV-2989-AT
DEFENDANTS. :
:

10 TRANSCRIPT OF HEARING ON PRELIMINARY INJUNCTION VIA ZOOM

PROCEEDINGS

BEFORE THE HONORABLE AMY TOTENBERG

UNITED STATES DISTRICT JUDGE

SEPTEMBER 11, 2020

8:16 A.M.

VOLUME 2

REDACTED

21 **MECHANICAL STENOGRAPHY OF PROCEEDINGS AND COMPUTER-AIDED**
22 **TRANSCRIPT PRODUCED BY:**

1 cybersecurity. And as I understand, Mr. Tyson doesn't have an
2 objection.

3 MR. TYSON: That is correct, Your Honor. We don't
4 have an objection to having Mr. Liu testify as a computer
5 science expert with a focus on cybersecurity.

6 THE COURT: All right. I'll accept it.

7 MS. BROGAN: Thank you.

8 **Q. (BY MS. BROGAN)** Mr. Liu, have you had an opportunity to
9 review the two declarations submitted by State defendants for
10 Mr. Cobb in this matter?

11 **A.** Yes, I have.

12 **Q.** Mr. Cobb addresses this issue of whether the QR codes
13 produced by the BMDs are encrypted.

14 Have you done your own analysis to determine whether the
15 QR codes are encrypted?

16 **A.** Yes. Yes, I have.

17 **Q.** And what did you find?

18 **A.** In examination of the QR codes, we identified that the QR
19 codes were not encrypted, certainly not with any known
20 industry-accepted standard algorithm.

21 And the process that we undertook to perform the
22 verification was to develop code that read the QR code.
23 Wherein, we were able to extract the raw data and determine
24 that it was -- whether or not it was encrypted. And our
25 conclusion was that it was not.

1 **Q.** And what did you understand Mr. Cobb to say with respect
2 to encryption of these QR codes?

3 **A.** In his -- I believe it is in his declaration he states
4 that these QR codes are signed and encrypted. And that is not
5 a correct statement.

6 **Q.** In his second declaration, does he continue to suggest
7 that the QR codes are encrypted?

8 **A.** I would need to -- I would, yeah, probably want to take a
9 look at that second declaration to understand exactly which
10 section you are referring to.

11 **Q.** Sure. Okay.

12 **A.** But certainly in the first one, he does make that
13 statement. And it is not correct.

14 **Q.** Okay. Actually, we could pull up -- let me ask it this
15 way: Do you understand a distinction between QR codes that are
16 encrypted and QR codes that are encoded?

17 **A.** Yes. There is a big distinction. It is a fundamental
18 distinction. Coding and encryption are two very different
19 things.

20 **Q.** So if Mr. Cobb had walked back his analysis that the QR
21 codes were encrypted and now suggests that they are encoded,
22 would that make a difference?

23 **A.** Yes. And I think if that is what you are referring to,
24 Mr. Cobb does state in his second declaration that they are
25 encoded and not encrypted.

1 **Q.** Dr. Coomer, hi. My name is Robert McGuire. I'm counsel
2 for the Coalition plaintiffs in this case.

3 First question, can you hear me clearly?

4 **A.** Yes, I can.

5 **Q.** Okay. Thank you. You are the director of products
6 strategy and security for Dominion Voting Systems?

7 **A.** That is correct.

8 **Q.** I want to begin by asking you about the plaintiffs'
9 concerns in this case that the Dominion scanners are not
10 counting all the votes.

11 Are you and Dominion aware that voter markings that are
12 obvious votes to human eyes are being disregarded on central
13 count scanners due to settings that degrade the image quality?

14 **A.** I do not agree with that statement, no.

15 **Q.** Okay. You disagree that votes are being discarded by the
16 scanner that humans would interpret as votes?

17 **A.** Nothing is being discarded from the system. We are
18 capturing the percentage fill of the targets for every mark
19 that is made on the ballot. That has absolutely nothing to do
20 with the scanner resolution, the DPI setting.

21 Whether a mark is characterized as a ballot vote, an
22 ambiguous mark, or not a vote is wholly dependent on the
23 threshold settings of the lower and upper threshold limits as
24 well as the percentage fill of the target detected by the
25 system.

1 **Q.** So does that mean you would not count something as a vote
2 if to a human eye it looks like a vote?

3 **A.** No, that is not what it means at all. What it means is
4 the system is simply scanning the image and detecting the
5 percentage fill of the target area. Based on the settings, it
6 will automatically say whether it is a valid counted vote,
7 whether it is an ambiguous mark, or whether we don't
8 characterize it as any.

9 There are further processes in the system, mainly
10 adjudication, which allows secondary review -- voter review for
11 voter intent issues, which is integral to the system, which is
12 where you can apply voter intent guidelines and processes to
13 essentially characterize a vote that the system is not
14 automatically specifying as a vote.

15 MR. McGUIRE: Okay. Can I ask Clinton to put up
16 Exhibit PX 7, which was introduced yesterday into evidence?

17 Let's see. Clint, could you scroll to the -- scroll
18 down just a bit.

19 **Q. (BY MR. McGUIRE)** So, Mr. Coomer, do you see that where it
20 says the race for sheriff? It says Theodore "Ted" Jackson. Do
21 you see that?

22 **A.** Yes, I do.

23 **Q.** And you see that mark there?

24 **A.** Correct.

25 **Q.** Now, to your eyes as human, does that look like a vote?

1 can't make any statements on that.

2 **Q.** But if it had been adjudicated in the course of a normal
3 election process, you would have seen that on the AuditMark in
4 front of us; right?

5 **A.** Yes. Yes.

6 **Q.** Okay. So I would like to turn to precinct scanners, and
7 we can take that exhibit down.

8 Dr. Coomer, Dominion's precinct scanners are generally
9 used to scan BMD ballots; right?

10 **A.** Can you be more specific?

11 **Q.** Well, the precinct -- in the precincts most of the ballots
12 that are scanned on the precinct scanners are ballots printed
13 from BMDs?

14 **A.** In Georgia, that is a correct statement.

15 **Q.** But the scanners -- the precinct scanners are capable of
16 scanning and tabulating in the precincts hand-marked paper
17 ballots, are they not?

18 **A.** Correct.

19 **Q.** Now, you recently submitted a declaration at Document
20 834-1. I'm going to read to you -- I can show it to you. I
21 don't actually have it as an exhibit. But I can share my
22 screen and show it to you so you can follow along with what I'm
23 reading, assuming that I can do this.

24 If you can tell me when that comes up for you.

25 **A.** I can see it now.

1 **A.** I am aware that representatives for the plaintiffs have
2 access to the precinct equipment. I can't characterize what a
3 test is.

4 **Q.** Okay. Would you -- would it surprise you to learn that
5 the plaintiffs --

6 MR. TYSON: Your Honor, I'll object right here. I
7 think we're getting into the scope of the testing again. And
8 we went over this yesterday. I don't think this is the proper
9 place to bring this in.

10 THE COURT: I don't know that he is getting into
11 testing.

12 MR. McGUIRE: Correct, Your Honor. If I may just ask
13 one or two questions, it will be clear. I'm getting to
14 feasibility.

15 **Q.** **(BY MR. McGUIRE)** Are you aware that the Dominion precinct
16 scanner will accept and scan ordinary photocopies of ballots?

17 **A.** I'm aware that the precinct scanner will accept a valid
18 ballot.

19 **Q.** Okay. Are you aware that it will accept a photocopy of a
20 valid ballot?

21 **A.** Potentially, yes.

22 **Q.** Okay. So even if there weren't capacity among your
23 qualified printers, wouldn't it be possible for any commercial
24 printer to provide acceptable ballots for Georgia to use?

25 **A.** No, I can't agree with that statement at all. No.

1 THE COURT: All right. Very good. Thank you.

2 Whereupon,

RICHARD BARRON,

4 after having been first duly sworn, testified as follows:

CROSS-EXAMINATION

6 BY MR. BROWN:

7 Q. Mr. Barron, I am Bruce Brown. We have met.

8 | What is your position?

9 **A.** The Director of Registration and Elections for Fulton
10 County.

11 Q. And is Fulton County the biggest jurisdiction in the State
12 of Georgia?

13 | A. Yes.

14 Q. How many registered voters do you have approximately?

15 A. If you include inactive, it is about 845,000.

16 Q. And, Mr. Barron, the September special election is
17 currently underway now; is that right?

18 A. Yes.

19 Q. And has Fulton County experienced problems with the
20 electronic Poll Pads in the September election?

21 **A.** Yes. On Tuesday.

22 Q. And what problems did it have?

23 **A.** There were some precincts that if the voter -- once a
24 voter checked in and went to get a card activated off the Poll
25 Pad, if more than one voter from that -- after the first voter

1 checked in on that precinct, the Poll Pad would indicate that
2 the voter had already voted and that another card couldn't be
3 created.

4 **Q.** So you only got one checked in per Poll Pad; is that
5 correct?

6 **A.** Yeah. In certain precincts.

7 We had -- we notified the vendor, KNOWiNK, on August 29
8 that we were encountering an issue. It was the same issue we
9 encountered in August. And they told us to do a hard reset,
10 which we did.

11 The Poll Pads seemed to operate normally until about
12 10:30 in those seven early voting sites. And then that issue
13 reared its head again. And we confirmed that Clayton County
14 and Dekalb County, the only other two counties in this
15 election, had the same -- same issue.

16 MR. BROWN: Ms. Cole, if you could pull up for us
17 Plaintiffs' Exhibit 53.

18 **Q. (BY MR. BROWN)** Mr. Barron, on the screen you should be
19 able to see what has been marked as Plaintiffs' Exhibit 53.

20 Are you familiar with the guidance from the Secretary of
21 State relating to using emergency paper ballots?

22 **A.** Yes.

23 **Q.** And pursuant to this guidance and regulations, Fulton
24 County needs to be ready to use hand-marked paper ballots
25 instead of BMDs under certain situations; correct?

1 **A.** Yes.

2 **Q.** And the guidance actually gives some detail on what you
3 are supposed to do? For example, you need to have Sharpie,
4 fine point black pens; correct?

5 **A.** Yes.

6 **Q.** And has other voting procedures that you need to follow
7 for using hand-marked paper ballots instead of BMDs; correct?

8 **A.** Yes.

9 **Q.** And you and -- you have to stock hand-marked paper ballots
10 to be used by hand in each of your voting locations already;
11 correct?

12 **A.** Yes. That's correct. We have to have ten percent of the
13 number of registered voters assigned to that precinct worth of
14 paper ballots.

15 **Q.** And your poll workers know how to use hand-marked paper
16 ballots so that they can comply with these emergency
17 procedures; correct?

18 **A.** Yes.

19 **Q.** Mr. Barron, prior to -- I didn't go into your work
20 background.

21 Prior to working for Fulton County, did you have
22 experience in election administration in jurisdictions in which
23 hand-marked paper ballots were the primary vote of elections?

24 **A.** Yes. In early -- I think in 2000 to 2002 in Travis
25 County, Texas, that was the case. And then when I was in

1 Williamson County, Texas, we did a hybrid system where at times
2 we would do early voting via DRE and election day with paper.

3 **Q.** Mr. Barron, if the Court ordered Fulton County to use
4 hand-marked paper ballots for election day, would you be able
5 to comply? Would Fulton County be able to comply with the
6 Court's order?

7 **A.** Yes. I mean, it is always -- I mean, the time -- the time
8 frame now is a little tricky just because we have already
9 prepared all of our training manuals for -- to go forward with
10 BMDs.

11 **Q.** If you switched -- if you switched out the BMDs, however,
12 it would save a lot of time, on the other hand, for a lot of
13 activities that you have to do to set up the BMDs; correct?

14 **A.** Yeah. Well, you wouldn't have the same -- the same sort
15 of time demands with regard to logic and accuracy. You
16 still -- I mean, I think there would be tradeoffs. There
17 probably would be overall less time spent preparing an election
18 day with paper than currently just because of the logic and
19 accuracy time.

20 MR. BROWN: Thank you. That is all I have, Your
21 Honor.

22 THE COURT: Anything further from any other counsel?

23 MS. RINGER: I didn't know if the other plaintiffs'
24 counsel wanted to question Mr. Barron.

25 MR. CROSS: Nothing from me, Your Honor.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 Q. [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 A. [REDACTED]
13 Q. [REDACTED]
14 [REDACTED]
15 A. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 Q. [REDACTED]
25 [REDACTED]

1 A. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 LAW CLERK COLE: [REDACTED]
10 THE COURT: [REDACTED]
11 A. [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
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1 [REDACTED]
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4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 Q. (BY MS. ASCARRUNZ) [REDACTED]
8 THE COURT: [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 THE WITNESS: [REDACTED]
12 [REDACTED]
13 THE COURT: [REDACTED]
14 [REDACTED]
15 THE WITNESS: [REDACTED]
16 [REDACTED]
17 THE COURT: [REDACTED]
18 LAW CLERK COLE: [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 THE COURT: [REDACTED]
23 [REDACTED]
24 Q. (BY MS. ASCARRUNZ) [REDACTED]
25 [REDACTED]

1 C E R T I F I C A T E
2

3 UNITED STATES OF AMERICA
4

5 NORTHERN DISTRICT OF GEORGIA
6

7 I, SHANNON R. WELCH, RMR, CRR, Official Court Reporter of
8 the United States District Court, for the Northern District of
9 Georgia, Atlanta Division, do hereby certify that the foregoing
10 357 pages constitute a true transcript of proceedings had
11 before the said Court, held in the City of Atlanta, Georgia, in
the matter therein stated.

12 In testimony whereof, I hereunto set my hand on this, the
13 13th day of September, 2020.

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15
16
17 *Shannon R. Welch*
18 SHANNON R. WELCH, RMR, CRR
19 OFFICIAL COURT REPORTER
20 UNITED STATES DISTRICT COURT
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